IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1138 OF 2006

M/s. Forbes Gokak Ltd,. .. Petitioners.

vs.

Shramik Utkarsha Sabha

& Anr. .. Respondents.

Mr. P. Ramaswamy for petitioners.

Mr. Rahul Nerlekar for respondent no.1.

CORAM : S.U. KAMDAR, J.

DATE : 24th April, 2006.

P.C.:

. The present petition is filed challenging the Part-I Award dated 1.4.2005 passed on Exhibit U-5 preferred by the respondent union. By the said interim relief is granted to the respondent workman of payment of Rs. 1000/- per month. It is the case of the petitioner that except the one of the 8 employees i.e. one Mr. Vijay Parchure in respect of other seven persons the award does not survive because they have settled their claim with the petitioner company. The only ground on which the interim order is challenged is that the said

employee Mr. Vijay Parchure was not a workman and not covered by the settlement and, therefore, was not entitled to the interim relief. In so far as the aforesaid plea is concerned, the Tribunal has considered the aforesaid issue. The tribunal has held that the nature of work given to the said Mr. Parchure did not prima facie amount to a supervisory in nature and, therefore, has held that the said employee will fall within the ambit of the definition of workman. The list of duties performed by the said employee was produced before the Tribunal to establish whether the said employee is a workman or not. However, the learned counsel appearing for the petitioner has submitted before me that by a letter dated 16.6.2001 the basic salary was offered to the said Mr. Parchure of Rs. 4775/- per month and other benefits and allowances, that this pay-scale was available to officers only. However, he also admits that this letter dated 16.6.2001 was not accepted by the respondent workman. In my opinion, if the said letter is not accepted by the respondent workman then by virtue of the said offer letter it cannot be said that the respondent has been appointed to the cadre of officer as claimed by the petitioner herein. In so far as the question whether he is covered by the settlement or not, in my opinion, once he is a workman then he is entitled to the benefits of the settlement which have been arrived at with the Union

and therefore in my opinion there is no infirmity in the impugned order passed by the Industrial Court. The Court below has taken the prima facie view on an interlocutory application that the said employee Mr. Parchure was a workman. Apart from the aforesaid, I am of the further opinion that it is not proper to interfere with the inter-locutary order passed by the Industrial Court in writ jurisdiction under Article 226 of the Constitution of India particularly when the order does not result in any substantial injustice. I am not inclined to interfere with the impugned order of the Industrial Court in the present writ petition. The same accordingly fails and is dismissed. No order as to costs.